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7 TATYANA EVGENIEVNA
8 DREVALEVA,
9 Plaintiff,
10 v.
11 THE U.S. IMMIGRATION &
12 NATURALIZATION SERVICE,
Defendant.

Case No. 20-cv-04493-JD

**ORDER REVOKING PLAINTIFF'S
IFP STATUS**

13 In Tatiana Drevaleva's pending appeal, the Ninth Circuit made a limited referral back to
14 this Court to determine whether a prior grant of in forma pauperis status should continue, or
15 whether the appeal is frivolous or taken in bad faith. Dkt. No. 13.

16 An indigent party who cannot afford the expense of pursuing an appeal may file a motion
17 for leave to proceed in forma pauperis. Fed. R. App. P. 24(a); 28 U.S.C. § 1915(a)(1). Pursuant
18 to Federal Rule of Appellate Procedure 24(a), "a party to a district-court action who desires to
19 appeal in forma pauperis must file a motion in the district court." The party must attach an
20 affidavit that (1) shows in detail "the party's inability to pay or to give security for fees and costs,"
21 (2) "claims an entitlement to redress," and (3) "states the issues that the party intends to present on
22 appeal." Fed. R. App. P. 24(a)(1). But even if a party provides proof of indigence, "[a]n appeal
23 may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good
24 faith." 28 U.S.C. § 1915(a)(3). An appeal is in "good faith" where it seeks review of any issue
25 that is "non-frivolous." *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). An
26 issue is "frivolous" if it has "no arguable basis in fact or law." See *O'Loughlin v. Doe*, 920 F.2d
27 614, 617 (9th Cir. 1990).

1 The appeal is frivolous. Drevaleva's complaint seeks to compel the United States
2 Citizenship and Immigration Services to posthumously grant permanent residency to Valentina
3 Volkova, an individual who moved to the United States from Ukraine and died before her Green
4 Card interview. Dkt. No. 1. But Drevaleva, who was a friend of Volkova's, cannot plausibly
5 allege that she meets the requirements for the extraordinary remedy of mandamus relief. *See* Dkt.
6 No. 8 at 2 (citing *Lowry v. Barnhart*, 329 F.3d 1019, 1021 (9th Cir. 2003); *Patel v. Reno*, 134 F.3d
7 929, 931 (9th Cir. 1998)). Drevaleva's Article III standing for this action is also highly
8 questionable.

9 Plaintiff's action has no arguable basis in fact or law, and her in forma pauperis status is
10 consequently revoked. The Clerk is requested to forward this order to the Ninth Circuit in Case
11 No. 20-17522.

12 **IT IS SO ORDERED.**

13 Dated: January 25, 2021



JAMES DONATO
United States District Judge